

US DEFENSE INDUSTRY TO MEET PRESSURE FROM DANISH PEERS.

Kevin Knagg
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Background:

A general meeting of the Danish Defense Industry raised a number of issues which may have direct cost concerns for any US defense and aerospace company wishing to do business in Denmark. This report examines what current regulations are and highlights what changes may occur and how they may come to effect the US defense industry in its dealings with its Danish counterparts.

Questionable Practices Support the Danish Defense Industry

In order to support the small but technologically advanced Danish Defense Industry all who sell goods or services to the Danish Defense Materiel Procurement branches (Danish Armed Forces) are obliged to purchase goods or services of the same value from a Danish defense company. Current "requirements" are as follows -

- if the amount of the order is more than DKK 25 million (USD 2.9 million) the seller (usually a foreign company) shall purchase for the same amount from Denmark.
- if the amount of the order is over DKK 100 million (USD 11.6 million) the foreign seller is obliged to state, within 30 days of the contract being pre-signed, that they are ready to purchase for at least 30% of the value of the order goods and services in the form of a conditional contract. And before the deal is completed the seller must purchase for the remaining 70% of the deal. According to EU regulations, which included specific exclusions from competition laws so that individual countries can protect their defense industries, these regulations and practices do not contravene any infringements on competition.

Danish Companies Demand Stricter Compliance With Obligations

It is the Danish Agency for Trade and Industry (DTI) that is responsible for ensuring that Danish defense companies get their share of the cake. But industry has been voicing concerns that the DTI is not doing enough to ensure that foreign sellers fulfill their commitments to purchase from Danish suppliers. Currently the DTI is responsible for ensuring that all companies who wish to become involved in the sales process make clear to them (the DTI) that they are willing and able to make the subsequent purchase from a Danish company - once this is done then each company is able to participate in any sales and bidding processes.

Yet Danish defense companies feel that the DTI are being far too lenient in allowing foreign companies to renege on their agreement to purchase for the agreed sales percentage value. Instead of pressing foreign firms to fulfill contractual obligations, the DTI places them on a "black-list," effectively ensuring that that particular company cannot sell to the Danish Military until it has fulfilled its pre-agreed contractual obligations (currently 16 companies are on the list and the value of these unfulfilled obligatory purchases approaches USD 17.4 million). One of the problem issues for the Danish defense industry is that any contractual agreements from foreign purchasers to make purchases from Danish companies can run for as long as eight (8) years - this means that there is a continual deficit between what foreign companies sell within Denmark and what they purchase for. Currently the amount foreign firms are contractually obliged to purchase for in Denmark stands at USD 767 million - this amount is so high because Danish Defense Forces recently placed orders for 3 hercules transport planes and an upgrading of Leopard Tanks but the subsequent "Danish purchases" have yet to be

undertaken. As Denmark finally closes in on the forthcoming purchase of a joint Norwegian/ Swedish/ Danish rescue helicopter this amount will rise. Of the three competitors for the helicopters, only Sikorsky and NH Industries have made public their "Danish purchases" as part of their contractual obligations - information relating to the "Danish purchases" of the third bidder, Augusta - Westland, are not known.

As the Danish Defense Industry places increasing pressure on the DTI to tighten its checks on foreign companies fulfilling their "buy Danish" obligations this will naturally have an effect on any company wishing to sell goods and services to the Danish Armed Forces. This protectionism has been ongoing for some time but it seems that the DTI have been lenient in the extreme in forcing foreign sellers to follow the contractual agreements: as local pressure forces these rules to be tightened it may even lead to increased regulations for the foreign company to follow and increased immediate costs that cannot be offset in the long-term (industry contacts suggest that the 8 year limit might be reduced, placing even greater pressure on foreign sellers to fulfill contractual obligations in a shorter-time frame). As the members of the Defense and Aerospace Industry in Denmark place greater pressure on the DTI to implement change, US companies may well feel increased pressure from all sides to follow all contractual obligations and face even more stringent checks on their actions in the Danish market as a whole.

Additional Information

For additional information concerning the above please contact CS Copenhagen:

Kevin James Knagg
Commercial Specialist
Commercial Section
US Embassy
Dag Hammarskjolds Alle 24
DK - 2100 Copenhagen
Denmark
tel: (45) 35 55 31 44 ext. 271
fax: (45) 35 42 01 75

Christopher Beede
Acting Senior Commercial Officer
Pol/ Econ Section
US Embassy
Dag Hammarskjolds Alle 24
DK - 2100 Copenhagen
Denmark
tel: (45) 35 55 31 44 ext. 335
fax: (45) 35 42 01 75